

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>****I. EXECUTIVE SUMMARY**

Date of Incident:	March 7, 2016
Time of Incident:	11:15 a.m.
Location of Incident:	[REDACTED] South Kedzie Avenue
Date of COPA Notification:	March 7, 2016
Time of COPA Notification:	12:06 p.m.

The complainant, [REDACTED] littered while walking down the street in view of a Chicago Police officer who berated [REDACTED] using a racial slur.

**II. INVOLVED PARTIES**

Involved Officers:	Star# [REDACTED] Employee# [REDACTED] Date of Appointment - [REDACTED], 1997, Police Officer, Unit of Assignment - [REDACTED] District, DOB - [REDACTED]/66, Male, White	Star# [REDACTED] Employee# [REDACTED] Date of Appointment - [REDACTED], 2003, PO as Detective, Unit of Assignment - [REDACTED] Detective Area South, DOB - [REDACTED]/73, Male, White	Subject: [REDACTED] DOB - [REDACTED]/74, Male, Black
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**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer [REDACTED]	1) Said to [REDACTED] words to the effect of, "You know you better find a fucking garbage can, you fucking nigger!"	Not Sustained

**IV. APPLICABLE RULES AND LAWS**

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

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Rules

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1. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
  2. Rule 9: Engaging in any unjustified verbal or physical altercation with any person while on or off duty.
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## General Orders

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1. G02-01, III, A, B, C & D - Human Rights and Human Resources
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**V. INVESTIGATION<sup>2</sup>****a. Complainant Interview**

In an interview with the Independent Police Review Authority (IPRA) on March 8, 2017, **Complainant** ██████████ said he was walking alone at ██████████ South Kedzie Avenue and threw some trash on the ground when an unmarked dark grey SUV with two white male plainclothes officers drove by, slowed down, and briefly stopped. ██████████ said the driver, who he described as heavy-set with a bald head, yelled to him something to the effect of, “You know you better pick that garbage up, you fucking nigger.” ██████████ said the vehicle then proceeded northbound on Kedzie Avenue. ██████████ was adamant that he could identify the accused officer if given the opportunity.

**b. Documentary Evidence**

The **GPS Data Printout** for March 7, 2016 from 11:00 a.m. to 12:00 p.m. indicates there were two unmarked tactical units operating near ██████████ S. Kedzie Ave. on the date and time in question. Beat ██████████ and ██████████ both tactical units, were assigned to the ██████████ District. The GPS printout show both units were near ██████████ S. Kedzie Avenue between 11:08 and 11:15 a.m. Both units drove by that location at a slow rate of speed and both vehicles made brief stops and drove northbound away from that location.

A search for **PODS** was performed by IPRA investigators with negative results.

The **Attendance and Assignment (AA) Sheets** for the ██████████ District for March 7, 2016 indicate that Beat ██████████ was assigned to Officer ██████████ # ██████████ and Officer ██████████ # ██████████ as a two-man tactical unit operating an unmarked car with cage. Also, vehicle ██████████ was assigned to Beat Number ██████████ assigned to Officer ██████████

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

# [REDACTED] and Officer [REDACTED] # [REDACTED] as a two-man tactical unit assigned to an unmarked car with cage.

The **Fleet Focus M5, Vehicle Unit Items Listings** indicate that vehicle number [REDACTED] is a 2015 Ford UT Intercept, equipped with GPS and is UX/grey in color. Vehicle number [REDACTED] is a 2015 Ford UT Intercept, equipped with GPS and is Titanium in color.

### c. Officer Interviews

Officer [REDACTED] # [REDACTED] reviewed copies of AA Sheets and a GPS Data Printout from March 7, 2016. Officer [REDACTED] said he could not recall any events from that date but acknowledged the reports show he and Officer [REDACTED] # [REDACTED] were assigned to Beat [REDACTED] and vehicle [REDACTED] a dark grey Ford Explorer, and their vehicle was in the vicinity of [REDACTED] South Kedzie Avenue on the date/time in question. Officer [REDACTED] said neither he nor Officer [REDACTED] had a clean-shaven head in March 2016. Officer [REDACTED] reviewed [REDACTED] driver's license photo and said he did not recall ever seeing [REDACTED] before. Officer [REDACTED] did not recall seeing [REDACTED] walking at/near [REDACTED] South Kedzie Avenue in March 2016. Officer [REDACTED] said neither he nor Officer [REDACTED] observed [REDACTED] litter or slowed their vehicle and hollered at [REDACTED]. Officer [REDACTED] reviewed the AA Sheets for tactical officers working on that date and his attention was directed to the GPS printouts for that date. After reviewing those documents Officer [REDACTED] acknowledged there were only two tactical units from the [REDACTED] District in the area on this date and time. Officer [REDACTED] acknowledged that the only other tactical unit in the area was vehicle [REDACTED]. After reviewing the Attendance and Assignment Sheets it was determined that Officer [REDACTED] # [REDACTED] Officer [REDACTED] # [REDACTED] and Officer [REDACTED] # [REDACTED] were assigned to Beat [REDACTED] and [REDACTED] respectively. They were operating vehicle Unit [REDACTED] on March 7, 2016. Officer [REDACTED] said he has utilized vehicle [REDACTED] while performing duties as a tactical officer. Officer [REDACTED] said vehicle [REDACTED] is a dark grey Ford Explorer SUV. Officer [REDACTED] said Officer [REDACTED] and Officer [REDACTED] were both bald or had very little hair on their heads in March 2016. Officer [REDACTED] said both officers were approximately the same size and weight. Officer [REDACTED] said he did not recall seeing Officer [REDACTED] and Officer [REDACTED] driving on/near [REDACTED] S. Kedzie Ave, on March 7, 2016. Officer [REDACTED] said he does not recall seeing either officer slow the speed of their vehicle and yell out the window at a black male who was walking down the street and threw trash on the ground. Officer [REDACTED] does not recall having any conversations with any officer, around this time-period, who indicated they yelled at a black male they observed throwing trash on the ground.

In his interview with COPA on September 27, 2017, Officer [REDACTED] # [REDACTED] was provided copies of the AA Sheets, a GPS Data Printout, Event Query, and photo identification for [REDACTED] from March 7, 2016. After reviewing these documents, Officer [REDACTED] said he was a member of a two-man tactical team assigned to the [REDACTED] District. Officer [REDACTED] was assigned to Beat [REDACTED] utilizing vehicle [REDACTED]. Officer [REDACTED] was in an unmarked dark colored SUV. Officer [REDACTED] said neither he nor Officer [REDACTED] his partner, had a clean-shaven head at the time. Officer [REDACTED]

[REDACTED] reviewed the AA Sheets and a GPS Data Printout and acknowledged these documents show he and Officer [REDACTED] were near [REDACTED] S. Kedzie Avenue on the date and time when the alleged incident occurred. Officer [REDACTED] acknowledged Beat [REDACTED] another tactical unit operated by Officer [REDACTED] # [REDACTED] and Officer [REDACTED] # [REDACTED] was also in the area. Officer [REDACTED] said Officer [REDACTED] wore a "high and tight" Marine haircut in March 2016. Officer [REDACTED] Officer [REDACTED] and Officer [REDACTED] had dark hair when this incident occurred. Officer [REDACTED] did not see [REDACTED] throw trash on the ground on March 7, 2016. Officer [REDACTED] did not slow his vehicle as it was headed northbound and yell out the window a statement like the one alleged. Officer [REDACTED] did not see or hear Officer [REDACTED] or Officer [REDACTED] slow their vehicle down and yell at anyone during this time. Officer [REDACTED] has not discussed this case with anyone, and he had nothing further to add.

Officer [REDACTED] # [REDACTED] was

provided copies of AA Sheets, a GPS Data Printout, Event Query, and photo identification for [REDACTED]. After reviewing these documents, Officer [REDACTED] acknowledged he was assigned to vehicle [REDACTED] on this March 7, 2016. Officer [REDACTED] acknowledged the documents indicate he and Officer [REDACTED] were around [REDACTED] S. Kedzie Avenue at 11:15 a.m. headed northbound at the time the alleged incident occurred. Officer [REDACTED] said that due to the passage of time he could not recall any specifics related to this incident, such as who was driving the vehicle. Officer [REDACTED] said he had no independent recollection of the incident. Officer [REDACTED] never made the statement alleged and he never heard Officer [REDACTED] make the statement alleged. Officer [REDACTED] was working as a floater in the [REDACTED] District and he did not work with Officer [REDACTED] on a regular basis. Officer [REDACTED] and Officer [REDACTED] do not socialize off the job. Officer [REDACTED] said if he heard Officer [REDACTED] make a statement like the one alleged in this complaint he would have reported that information to his supervisor.

In his interview with COPA on December 12, 2017,<sup>3</sup> Officer [REDACTED] # [REDACTED] said that due to the passage of time he had no recollection of the events associated with the incident. Officer [REDACTED] reviewed documents that showed he and his partner, Officer [REDACTED] were in the vicinity of [REDACTED] S. Kedzie Avenue on the date and time when the alleged incident occurred. Officer [REDACTED] said he never made the statement alleged, and he never heard Officer [REDACTED] or any other officer make the statement alleged. After reviewing photo identification for [REDACTED] Officer [REDACTED] indicated he did not recall having any contact with [REDACTED] Officer [REDACTED] ended this interview by saying he served fourteen years in the United States Marine Corps and he has never

<sup>3</sup> Prior to Officer [REDACTED] interview on December 12, 2017, [REDACTED] representative, Attorney [REDACTED] identified a discrepancy on the Sworn Affidavit that was signed and sworn to by the complainant, [REDACTED]. That affidavit was completed on March 8, 2016, and it incorrectly indicated the date of this incident was March 7, 2015. COPA conducted a thorough review of the case file and determined that the discrepancy on the Sworn Affidavit was a Scrivener's Error made by the IPRA investigator who completed the affidavit. Officer [REDACTED] and [REDACTED] were made aware of the file review and advised that COPA intended to proceed with Officer [REDACTED] interview. COPA investigators explained to Officer [REDACTED] and [REDACTED] that the IPRA investigator that initially completed the affidavit had entered the date of incident erroneously. Officer [REDACTED] and [REDACTED] acknowledged they understood and the interview proceeded.

used the term "nigger" to address anyone. Officer [REDACTED] has never been accused of any racial or ethnic bias and he would immediately report anyone who used derogatory racial terms in his presence to his supervisor. Officer [REDACTED] said if he observed someone throwing trash on the ground he would correct them and issue a citation. Officer [REDACTED] said he would never denigrate anyone for this offense.

## VI. ANALYSIS

COPA uses a preponderance of the evidence standard to make its factual and legal determinations. If a determination is more probably true than not, then it meets the preponderance of the evidence standard.<sup>4,5</sup>

COPA finds that the allegation against Officer [REDACTED] is Not Sustained. COPA cannot determine by a preponderance whether Officer [REDACTED] yelled a racial slur at [REDACTED] on March 7, 2016, at approximately 11:15 a.m. on/near [REDACTED] S. Kedzie Avenue. [REDACTED] reported the alleged misconduct to IPRA shortly after the incident and provided a description of the officer alleged to have used the racial slur, as well as a description of the vehicle occupied by the officer. Officer [REDACTED] appearance at the time corresponds with [REDACTED] description, and Department records put Officer [REDACTED] in the area at the time of the alleged incident in a dark colored, unmarked SUV. Officer [REDACTED] and Officer [REDACTED] indicate they do not recall having any contact with [REDACTED]

Though COPA finds no cause to question [REDACTED] credibility, and it is axiomatic that an on-duty officer yelling a racial slur at a citizen is unacceptable and would violate multiple Department rules and directives, there exists insufficient evidence to prove or disprove the allegation by a preponderance. [REDACTED] was by himself when this incident allegedly occurred, and investigative efforts produced no witnesses, video, or other independent evidence.

## VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer [REDACTED]	Said to [REDACTED] words to the effect of, "You know you better find a fucking garbage can, you fucking nigger!"	Not sustained

<sup>4</sup> *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005).

<sup>5</sup> Relative to a finding of Exonerated (*i.e.* the conduct alleged occurred, but is found to be lawful and proper), COPA employs a standard of clear and convincing evidence. See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016).

Approved:

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Jay Westensee  
*Deputy Chief Administrator – Chief Investigator*

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Date

**Appendix A**

Assigned Investigative Staff

<b>Squad#: 14</b>	Squad 14
<b>Investigator:</b>	[REDACTED]
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	Jay Westensee